

- IV. Claims 1, 8–16, 27, 62, and 68–70, as Group IV.
- V. Claims 1, 17–19, 27, 56–62, and 64–66, as Group V.
- VI. Claims 1, 20–24, 27, 46–50, and 62, as Group VI.
- VII. Claims 1, 25, 27, 51–55, and 62, as Group VII.
- VIII. Claims 1, 26, 27, and 62, as Group VIII.

The Applicant respectfully asserts, however, that the Restriction fails to meet any of the elements the M.P.E.P. requires for proper restriction. In addition, the Applicant respectfully submits that both the state of the pending claims and advanced stage of prosecution makes it impossible for the Examiner to make such a showing.

M.P.E.P. § 803 makes it clear that a restriction requirement is only proper if: A) the inventions are independent or distinct as claimed, *and* B) there is a serious burden on the Examiner. It is further made clear that the Examiner is required to support the restriction requirement with specific reasons and examples for the conclusions, including an appropriate explanation of the supposed serious burden an unrestricted examination would impose. The Restriction laid out by the Examiner meets none of these requirements.

First, the Applicant respectfully points out that independent claims 1, 27, and 62 are listed by the Examiner as being members of *every* group. This is obviously not possible if the claims of each group are drawn to patentably distinct species. The Applicant respectfully submit that the Examiner must mean that claims 1, 27, and 62 are genus claims attributable to each “specie” listed in the restriction. While the Applicant does not concede that the Examiner’s Groups constitute species, the Applicant do agree that if the Examiner were to maintain the conclusion that they are, then claims 1, 27, and 62 are generic to each and every one of the Examiner’s Groups. Upon allowance of any one of claims 1, 27, or 62, the Applicant respectfully reminds the Examiner that all claims dependent from the allowed claim would then be allowable. M.P.E.P. § 806

Second, although the Restriction alleges that each of the Groups chosen by the Examiner represents a patentably distinct species of the claimed invention, the Applicant

respectfully submits that the arguments forwarded in the Restriction, do not support the Examiner's conclusion. For example, Group I is described as being directed to "a system for detecting fraud in a prepaid system, where said is a prepaid calling system," and Group II is directed to "a system for detecting fraud in a prepaid system, including refill information of a subscriber account;" descriptions that say nothing other than that the claims have different preambles. The Applicant also points out that, other than these descriptions, the Restriction provides no argument, reason, or conclusion justifying the restriction between Group I and Group II. Without conceding that either of the Examiner's descriptions accurately or fully describe the claims to which they are ascribed, the Applicant respectfully asserts that the restriction can not possibly establish a prima facie showing that two groups are independent or distinct when that Restriction is virtually devoid of any substantive reasoning other than these descriptions. The Applicant respectfully points out that nothing in the above argues or suggests that Group I is or is not patentably distinct from Group II. These arguments merely remind the Examiner that it is the Examiner's burden to establish a prima facie case for restricting the pending claims, and pointing out that the Restriction does not include the required reasoning.

Third, to be proper, the claims must present a serious burden to the Examiner if left unrestricted, and that M.P.E.P. § 806 requires the Examiner to make some prima facie showing of why such a burden is present. The Applicant respectfully points out that the Restriction fails to make *any* mention of a hardship to the Examiner. The restriction clearly can not meet the dictates of the M.P.E.P. if it is completely silent with respect to half of the Examiner's required showing.

For at least these three reasons, the Applicant respectfully asserts that the Restriction fails to meet the minimum showing the M.P.E.P. demands of a restriction requirement. Moreover, the Applicant respectfully points out that that it seems unlikely that the Examiner could ever make a prima facie showing of the required elements. Since this application has been examined *four* times, during which the claims have remained substantively unchanged, it is inconceivable that a fifth examination could involve some new burden. For even if these claims did embody eight species, surely the burden of examining them, associated with searching different art groups for example, has already been borne.

The Applicant respectfully asserts, therefore, that, for at least the reasons above, the restriction required of the claims 1-70 is improper, and respectfully asks the Examiner to withdraw it.

For all the reasons advanced above Applicant respectfully asserts that restriction between Groups I–VIII is improper. Additionally, since the search and examination of the application can be made without serious burden, the Examiner must, pursuant to the provisions of M.P.E.P. § 803, examine the application on its merits even if it does include claims to somewhat distinct inventions. Therefore, Applicant respectfully asserts that the restriction requirements should be withdrawn and claims 1–70 examined on the merits.

Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 06-2380, under Order No. 47524/P120US/10023619, from which the undersigned is authorized to draw.

Applicant respectfully requests that the Examiner call the below listed attorney if the Examiner believes that the attorney can helpful in resolving any remaining issues or can otherwise be helpful in expediting prosecution of the present application.

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Respectfully submitted,

By R. Ross Viguet
R. Ross Viguet
Registration No.: 42,203
FULBRIGHT & JAWORSKI L.L.P.
2200 Ross Avenue, Suite 2800
Dallas, Texas 75201-2784
(214) 855-8000
(214) 855-8200 (Fax)
Attorney for Applicant